

Amendment After Final Rejection
Serial No. 09/875,403

Docket No. US010127

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claim 1-24 are pending and stand rejected. Claims 1, 13, 15, 16, 19 and 21 have been amended. Claims 25 and 26 have been added.

Claims 1-5, 7-12, 14, 17, 18, 20 and 23-24 have been cancelled, without prejudice.

Claims 4-5, 15-16, 18 and 21-24 stand rejected 35 USC 112, first paragraph as failing to comply with the written description. Claims 4, 15, 16, 18, 23 and 24 recite the limitation "specifically selected by a user ... said program." The Office Action states that "[t]he disclosure does not disclose that the program record is received as a result of a user selecting the program."

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims as page 4, lines 23-25 clearly states that the user is capable of selecting a program ("[c]omputer 30 is also equipped with an infrared port 32 to allow user 11 to select a program to be viewed via a remoter control 15.").

Contrary to the statements made by the Office Action, applicant believes that the specification clearly provides teachings for a user selecting a program as is recited in the claims. However, in the interest of advancing the prosecution of this matter, applicant has elected to cancel the claims having the objected-to claim language.

For at least this reason, applicant submits that the rejection of the claims has been overcome and respectfully requests that the rejection be withdrawn and the claims allowed.

Claims 6 and 7 stand rejected 35 USC 112, first paragraph, as failing to comply with the enablement requirement. The Office Action alleges that the claims contain subject matter which is not described in the specification in such a way as to enable one skilled in the art to which it pertains.

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims as page 10, lines 16-21 clearly states that the first and second recommendations are generated when a program record fails to indicate a programming category ("[w]hen module 35 determines program record 17 fails to indicate a

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programming category during stage S52, module 35 sequentially proceeds to a stage S58 and a stage S60 of routine 50. During stage S58, decision tree classifier module 36 and Bayesian classifier module 37 [i.e., first and second classifier] each generate a program recommendation of program record 17....").

Hence, contrary to the statements made by the Office Action, applicant submits that the specification clearly provides teachings recited in the claims. However, in the interest of advancing the prosecution of this matter, the claims have been amended to more clearly state the invention.

For at least this reason, applicant submits that the rejection of the claims has been overcome and respectfully requests that the rejection be withdrawn and the claims allowed.

Claims 1-20 and 22 are rejected under 35 USC 102(b) as being anticipated by Hendricks (USP no. 5,798,785).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims. However in the interest of advancing the prosecution of this matter, the claims have been amended to more clearly state the invention. More specifically, the claims have been amended to recite that a first and second recommendations are generated when a program category indication fails to identify a program category, the recommendations are ranked and the recommendation with the highest rank is selected. No new matter has been added. Support for the amendment may be found at least in Figure 3B.

Hendricks discloses a reprogrammable set top for a television program delivery system which suggests programs for viewing. The invention provides for a menu driven program selection system. (see Abstract).

The Office Action characterizes Hendricks as "[the] system receives a program abstract (i.e., received record), which describes the program, from a program abstract data base. In turn the system is able to identify a category (i.e., genre, theme, etc.) from the program abstract that corresponds to the program and generates a recommendation list based upon the programs' correlation to the specified category. (see instant OA, page 4, section 6).

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Hence, Hendricks is able to identify a category from the program record. However, Hendricks fails to disclose providing a recommendation by determining a first and a second recommendation when the system is unable to identify a specified category, as is recited in the claims.

It is well recognized that to constitute a rejection pursuant to 35 USC §102, i.e., anticipation, all material elements recited in a claim must be found in one unit of prior art.

Hendricks cannot be said to anticipate the present invention, because Hendricks fails to disclose each and every element recited.

At least for this reason, applicant submits that the rejection of the claim has been overcome and can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

With regard to the remaining independent claims, these claims recite subject matter similar to that recited in claim 1 and were rejected for the same reason used in rejecting claim 1. Thus, for the amendments made to these claims, which are similar to the amendments made with regard to claim 1 and for the remarks made in response to the rejection of claim 1, which are also applicable in response to the rejection of these claims, and reasserted, as if in full, herein, applicant submits that the reason for rejecting the remaining independent claims have been overcome and the rejection can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claims.

With regard the remaining claims, these claims ultimately depend from the independent claims, which have been shown to contain subject matter not disclosed by, and, hence, allowable over, the reference cited. Accordingly, these claims are also allowable by virtue of their dependency from an allowable basic claim.

For at least this reason, applicant respectfully requests withdrawal of the rejection and allowance of the claims.

Claim 21 stands rejected under 35 USC 103(a) as being unpatentable over Hendricks in view of Applicant's admitted prior art (AAPA).

Claim 21 dependents from independent claim 15 discussed above and are therefore believed patentable for the same reasons. As shown above independent claim 15 includes

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subject matter not disclosed by Hendricks and the additional reference cited fails to provide any teachings to correct the deficiencies found to exist in Hendricks.


For at least this reason, claim 21 is allowable by virtue of its dependence from an allowable base claim. Applicant respectfully requests withdrawal of the rejection and allowance of the claim..

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

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